APPENDIX A

Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Denmark.

The United States of America and the Kingdom of Denmark, desirous of strengthening the bonds of peace and friendship traditionally existing between them and of encouraging closer economic and cultural relations between their peoples, and being cognizant of the contributions which may be made toward these ends by arrangements encouraging mutually beneficial investments, promoting mutually advantageous commercial intercourse and otherwise establishing mutual rights and privileges, have resolved to conclude a Treaty of Friendship, Commerce and Navigation, based in general upon the principles of national and of most-favored-nation treatment unconditionally accorded, and for that purpose have appointed as their Plenipotentiaries,

The President of the United States of America:

His Ambassador Extraordinary and Plenipotentiary, Mrs. Eugenie Anderson,

and

His Majesty the King of Denmark:

His Minister for Foreign Affairs,

Mr. Ole Bjorn Kraft,

Who, having communicated to each other their full powers found to be in due form, have agreed upon the following Articles:

Article I.

Each Party shall at all times accord equitable treatment to the persons, property, enterprises and other interests of nationals and companies of the other Party.

Article II.

1. Nationals of either Party shall be permitted to enter the territories of the other Party and to remain therein: (a) for the purpose of carrying on trade between the territories of the two Parties and for the purpose of engaging in related commercial activities; and (b) for other purposes subject to the laws relating to the entry and sojourn of aliens.

2. Nationals of either Party, within the territories of the other Party, shall be permitted: (a) to travel therein freely, and to reside at places of their choice; (b) to enjoy liberty of conscience; (c) to hold both private and public religious services; (d) to gather and to transmit material for dissemination to the public abroad; and (e) to communicate with other persons inside and outside such territories by mail, telegraph and other means open to general public use.

3. The provisions of the present Article shall be subject to the right of either Party to apply measures that are necessary to maintain public order and necessary to protect the public health, morals and safety.

Article III.

1. Nationals of either Party within the territories of the other Party shall be free from unlawful molestations of every kind, and shall receive the most constant protection and security, in no case less than that required by international law.

2. If, within the territories of either Party, a national of the other Party is accused of crime and taken into custody, the nearest consular representative of his country shall on the demand of such national be immediately notified. Such national shall: (a) receive reasonable and humane treatment; (b) be formally and immediately informed of the accusations against him; (c) be brought to trial as promptly as is consistent with the proper preparation of his defense; and (d) enjoy all means reasonably necessary to his defense, including the services of competent counsel.

Article IV.

1. Nationals of either Party shall be accorded national treatment in the application of laws and regulations within the territories of the other Party that establish a pecuniary compensation on account of disease, injury or death arising out of and in the course of employment or due to the nature of employment.

2. In addition to the rights and privileges provided in paragraph 1 of the present Article, nationals of either Party shall, within the territories of the other Party, be accorded national treatment in the application of laws and regulations establishing a system of compulsory insurance in the case of the United States of America and a system of voluntary insurance in the case of the Kingdom of Denmark, under which benefits are paid without an individual test of financial need against loss of wages or earnings due to unemployment.

Article V.

1. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment with respect to access to the courts of justice and to administrative tribunals and agencies within the territories of the other Party, in all degrees of jurisdiction, both in pursuit and in defense of their rights. It is understood that companies of either Party not engaged in either business or nonprofit activities within the territories of the other Party shall enjoy such access therein without any requirement of registration or domestication.

2. Contracts entered into between nationals and companies of either Party and nationals and companies of the other Party, that provide for the settlement by arbitration of controversies, shall not be deemed unenforceable within the territories of such other Party merely on the grounds that the place designated for the arbitration proceedings is outside such territories or that the nationality of one or more of the arbitrators is not that of such other Party. No award duly rendered pursuant to

any such contract, and final and enforceable under the laws of the place where rendered, shall be deemed invalid or denied effective means of enforcement within the territories of either Party merely on the grounds that the place where such award was rendered is outside such territories or that the nationality of one or more of the arbitrators is not that of such Party.

Article VI.

1. Property of nationals and companies of either Party shall receive the most constant protection and security within the territories of the other Party.

2. The dwellings, offices, warehouses, factories and other premises of nationals and companies of either Party located within the territories of the other Party shall not be subject to unlawful entry or molestation. Official searches and examinations of such premises and their contents, when necessary, shall be made with careful regard for the convenience of the occupants and the conduct of business.

3. Property of nationals and companies of either Party shall not be taken within the territories of the other Party except for public purposes nor shall it be taken without the prompt payment of just compensation. Such compensation shall be in an effectively realizable form and shall represent the full equivalent of the property taken; and adequate provision shall have been made at or prior to the time of taking for the determination and payment thereof.

4. Neither Party shall take unreasonable or discriminatory measures that would impair the legally acquired rights or interests within its territories of nationals and companies of the other Party in the enterprises which they have established or in the capital, skills, arts or technology which they have supplied.

5. Nationals and companies of either Party shall in no case be accorded, within the territories of the other Party, less than national treatment and most-favored-nation treatment with respect to the matters set forth in paragraphs 2 and 3 of the present Article. Moreover, enterprises in which nationals and

companies of either Party have a substantial interest shall be accorded, within the territories of the other Party, not less than national treatment and most-favored-nation treatment in all matters relating to the taking of privately owned enterprises into public ownership and to the placing of such enterprises under public control.

Article VII.

1. Nationals and companies of either Party shall be accorded, within the territories of the other Party, national treatment with respect to engaging in commercial, manufacturing, processing, financial, construction, publishing, scientific, educational, religious and philanthropic activities.

2. Nationals and companies of either Party shall further be accorded, within the territories of the other Party, most-favored-nation treatment with respect to:

a) the activities listed in paragraph 1 of the present Article;

b) exploring for and exploiting mineral deposits;

c) engaging in fields of economic and cultural activity in addition to those listed in paragraph 1 of the present Article or in sub-paragraph b) of the present paragraph;

d) organizing, participating in and operating companies of such other Party.

3. With respect to professional activities, nationals of either Party shall be accorded national treatment within the territories of the other Party, except as to professions which, because they involve the performance of functions in a public capacity or in the interest of public health and safety, are state-licensed and reserved by statute exclusively to citizens of the country.

4. Nationals and companies of either Party shall be permitted to engage, within the territories of the other Party, accountants and other technical experts, executive personnel,

attorneys, agents and other specialized employees of their choice, regardless of nationality. Moreover, such nationals and companies shall be permitted to engage accountants and other technical experts regardless of the extent to which they may have qualified for the practice of a profession within the territories of such other Party, for the particular purpose of making examinations, audits and technical investigations for, and rendering reports to, such nationals and companies in connection with the planning and operation of their enterprises, and enterprises in which they have a financial interest, within such territories.

Article VIII.

1. Nationals and companies of either Party shall be accorded within the territories of the other Party the right to constitute companies for engaging in commercial, manufacturing, processing, financial, construction, mining, publishing, scientific, educational, religious and philanthropic activities, and to control and manage enterprises which they have been permitted to establish or acquire within such territories for the foregoing and other purposes.

2. Companies, controlled by nationals and companies of either Party and constituted under the applicable laws and regulations within the territories of the other Party for engaging in the activities listed in paragraph 1 of the present Article, shall be accorded national treatment therein with respect to such activities.

Article IX.

1. Nationals and companies of either Party shall be accorded national treatment within the territories of the other Party with respect to acquiring all kinds of movable property by testate or intestate succession or through judicial process and all kinds of immovable property by testate or intestate succession.

2. Nationals and companies of either Party shall be accorded national treatment within the territories of the other

Party with respect to acquiring, by purchase, lease or otherwise, and with respect to owning movable property of all kinds, both tangible and intangible, subject to the right of such other Party to limit or prohibit, in a manner that does not impair rights and privileges secured by Article VIII, paragraph 1, or by other provisions of the present Treaty, alien ownership of particular materials that are dangerous from the standpoint of public safety and alien ownership of interests in enterprises carrying on particular types of activities.

3. Nationals and companies of either Party shall be accorded, with respect to acquiring immovable property within the territories of the other Party, the treatment generally accorded to foreigners under the laws of the place where the property is situated; and they shall be permitted to maintain tenure of immovable property necessary and proper to the exercise of rights and privileges secured by Article VII or by other provisions of the til [sic] present Treaty, in conformity with the applicable laws and regulations.

4. Nationals and companies of either Party may be required, within the territories of the other Party, to dispose of property they may have acquired:

a) in the case of movable property, if the alien ownership thereof is limited or prohibited pursuant to paragraph 2 of the present Article;

b) in the case of immovable property, if the property is held for purposes other than those referred to in paragraph 3 of the present Article.

Conditions or requirements shall not be imposed upon such disposition that would prevent the realization of full and just value. Particularly, a term of at least five years shall be allowed in which to effect such disposition.

5. Nationals and companies of either Party shall be accorded national treatment within the territories of the other Party with respect to disposing of property of all kinds, subject to the provisions of paragraph 4 of the present Article.

Article X.

Nationals and companies of either Party shall be accorded, within the territories of the other Party, national treatment and most-favored-nation treatment with respect to obtaining and maintaining patents of invention, and with respect to rights in trade marks, trade names, trade labels and industrial property of all kinds.

Article XI.

1. Nationals of either Party residing within the territories of the other Party, and nationals and companies of either Party engaged in trade or other gainful pursuit or in scientific, educational, religious or philanthropic activities within the territories of the other Party, shall not be subject to the payment of taxes, fees or charges imposed upon or applied to income, capital, transactions, activities or any other object, or to requirements with respect to the levy and collection thereof, within the territories of such other Party, more burdensome than those borne by nationals and companies of such other Party.

2. With respect to nationals of either Party who are neither resident nor engaged in trade or other gainful pursuit within the territories of the other Party, and with respect to companies of either Party which are not engaged in trade or other gainful pursuit within the territories of the other Party, it shall be the aim of such other Party to apply in general the principle set forth in paragraph 1 of the present Article.

3. Nationals and companies of either Party shall in no case be subject, within the territories of the other Party, to the payment of taxes, fees or charges imposed upon or applied to income, capital, transactions, activities or any other object, or to requirements with respect to the levy and collection thereof, more burdensome than those borne by nationals, residents and companies of any third country.

4. In the case of companies of either Party engaged in trade or other gainful pursuit within the territories of the other

Party, and in the case of nationals of either Party engaged in trade or other gainful pursuit within the territories of the other Party but not resident therein, such other Party shall not impose or apply any tax, fee or charge upon any income, capital or other basis in excess of that reasonably allocable or apportionable to its territories, nor grant deductions and exemptions less than those reasonably allocable or apportionable to its territories. A comparable rule shall apply also in the case of companies organized and operated exclusively for scientific, educational, religious or philanthropic purposes.

5. Notwithstanding the provisions of the present Article, each Party may: (a) accord specific advantages as to taxes, fees and charges to nationals, residents and companies of third countries on the basis of reciprocity, if such advantages are similarly extended to nationals, residents and companies of the other Party; (b) accord to nationals, residents and companies of a third country special advantages by virtue of an agreement with such country for the avoidance of double taxation or the mutual protection of revenue; and (c) accord to its own nationals and to residents of contiguous countries more favorable exemptions of a personal nature with respect to income taxes and inheritance taxes than are accorded to other nonresident persons.

Article XII.

1. Nationals and companies of either Party shall be accorded by the other Party national treatment and most-favored-nation treatment with respect to payments, remittances and tranfers of funds or financial instruments, between the territories of the two Parties as well as between the territories of such other Party and of any third country.

2. Neither Party shall impose exchange restrictions as defined in paragraph 5 of the present Article except to the extent necessary to assure the availability of foreign exchange for payments for goods and services essential to the health and welfare of its people and to prevent its monetary reserves from

falling to a very low level or to effect a reasonable increase in very low monetary reserves. It is understood that the provisions of the present Article do not alter the obligations either Party may have to the International Monetary Fund or preclude imposition of particular restrictions whenever the Fund specifically authorizes or requests a Party to impose such particular restrictions.

3. If either Party imposes exchange restrictions in accordance with paragraph 2 above, that Party shall make provisions at the earliest possible date and to such an extent as may be practicable for the withdrawal of: (a) the compensation referred to in Article VI, paragraph 3, of the present Treaty, (b) earnings, whether in the form of salaries, interest, dividends, commissions, royalties, payments for technical services, or otherwise, and (c) amounts for amortization of loans, amounts originating from depreciation of direct investments, and capital transfers; however, transfers dealt with under (c) shall be considered in the light of special needs for other transfers. If more than one rate of exchange is in force, the rate applicable to such withdrawals shall be a rate which is specifically approved by the International Monetary Fund for such transactions or, in the absence of a rate so approved, an effective rate which, inclusive of any taxes or surcharges on exchange transfers, is just and reasonable.

4. Exchange restrictions shall not be imposed by either Party in a manner unnecessarily detrimental or arbitrarily discriminatory to the claims, investments, transport, trade, and other interests of the nationals and companies of the other Party, nor to the competitive position thereof. Each Party shall afford the other Party adequate opportunity for exchanging views at any time regarding problems that might arise from the application of the present Article.

5. The term "exchange restrictions" as used in the present Article includes all restrictions, regulations, charges, taxes or other requirements imposed by either Party which burden or interfere with payments, remittances, or transfers of funds or

of financial instruments between the territories of the two Parties.

Article XIII.

Commercial travelers representing nationals and companies of either Party engaged in business within the territories thereof shall, upon their entry into and departure from the territories of the other Party and during their sojourn therein, be accorded most-favored-nation treatment in respect of the customs and other matters, including, subject to the exceptions in Article XI, paragraph 5, taxes and charges applicable to them, their samples and the taking of orders.

Article XIV.

1. Each Party shall accord most-favored-nation treatment to products of the other Party, from whatever place and by whatever type of carrier arriving, and to articles destined for exportation to the territories of such other Party, by whatever route and by whatever type of carrier, in all matters relating to customs duties and other charges, and with respect to all other regulations, requirements and formalities imposed on or in connection with imports and exports.

2. Neither Party shall impose any prohibition or restriction on the importation of any product of the other Party, or on the exportation of any article to the territories of the other Party, that:

a) if imposed on sanitary or other customary grounds of a non-commercial nature or in the interest of preventing deceptive or unfair practices, arbitrarily discriminates in favor of the importation of the like product of, or the exportation of the like article to, any third country;

b) if imposed on other grounds, does not apply equally to the importation of the like product of, or the exportation of the like article to, any third country; or

c) if a quantitive regulation involving allotment to any third country with respect to an article in which such other Party has an important interest, fails to afford to the commerce of such other Party a share proportionate to the amount by quantity or value supplied by or to such other Party during a previous representative period, due consideration being given to any special factors affecting the trade in the article.

3. Nationals and companies of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to all matters relating to importation and exportation.

4. As used in the present Treaty the term "products of" means "articles the growth, produce or manufacture of". The provisions of the present Article shall not apply to advantages accorded by either Party:

a) to products of its national fisheries;

b) to adjacent countries in order to facilitate frontier traffic; or

c) by virtue of a customs union or free trade area of which either Party may become a member, after having informed the other Party of its plans and having afforded it opportunity to express its views thereon.

Article XV.

1. Each Party shall promptly publish laws, regulations and administrative rulings of general application pertaining to rates of duty, taxes or other charges, to the classification of articles for customs purposes, and to requirements or restrictions on imports and exports or the transfer of payments therefor, or affecting their sale, distribution or use; and shall administer such laws, regulations and rulings in a uniform, impartial and reasonable manner. As a general practice, new administrative requirements affecting imports, with the exception of requirements imposed on sanitary grounds or for reasons of public

safety, shall not go into effect before the expiration of 30 days after publication, or alternatively, shall not apply to articles en route at time of publication.

2. Each Party shall provide an appeals procedure under which nationals and companies of the other Party, and importers of products of such other Party, shall be able to obtain prompt and impartial review and correction of administrative action relating to customs matters, including the imposition of fines and penalties, confiscations, and rulings on questions of customs classification and valuation by the administrative authorities. Penalties imposed for infractions of the customs and shipping laws and regulations shall be merely nominal in cases resulting from clerical errors or when good faith can be demonstrated.

Article XVI.

1. Products of either Party shall be accorded, within the territories of the other Party, national treatment and most-favored-nation treatment in all matters affecting internal taxation, sale, distribution, storage and use.

2. Articles produced by nationals and companies of either Party within the territories of the other Party, or by companies of the latter Party controlled by such nationals and companies, shall be accorded therein treatment no less favorable than that accorded to like articles of national origin by whatever person or company produced, in all matters affecting exportation, taxation, sale, distribution, storage and use.

Article XVII.

1. Each Party undertakes (a) that enterprises owned or controlled by its Government, and that monopolies or agencies granted exclusive or special privileges within its territories, shall make their purchases and sales involving either imports or exports affecting the commerce of the other Party solely in accordance with commercial considerations including price, quality, availability, marketability, transportation and other

conditions of purchase or sale; and (b) that the nationals, companies and commerce of such other Party shall be afforded adequate opportunity, in accordance with customary business practice, to complete for participation in such purchases and sales.

2. Each Party shall accord to the nationals, companies and commerce of the other Party fair and equitable treatment, as compared with that accorded to the nationals, companies and commerce of any third country, with respect to: (a) the governmental purchase of supplies, (b) the awarding of concessions and other government contracts, and (c) the sale of any service sold by the Government or by any monopoly or agency granted exclusive or special privileges.

Article XVIII.

1. The two Parties agree that business practices which restrain competition, limit access to markets or foster monopolistic control, and which are engaged in or made effective by one or more private or public commercial enterprises or by combination, agreement or other arrangement among such enterprises may have harmful effects upon commerce between their respective territories. Accordingly, each Party agrees upon the request of the other Party to consult with respect to any such practices and to take such measures as it deems appropriate with a view to eliminating such harmful effects.

2. The Parties recognize that conditions of competitive equality should be maintained in situations in which publicly owned or controlled trading or manufacturing enterprises of either Party engage in competition, within the territories thereof, with privately owned and controlled enterprises of nationals and companies of the other Party. Accordingly, such private enterprise shall, in such situations, be entitled to the benefit of any special advantages of an economic nature accorded such public enterprises, whether in the nature of subsidies, tax exemptions or otherwise. The foregoing rule shall not apply, however, to special advantages given in connec-

tion with: (a) manufacturing goods for government use, or supplying goods and services to the government for government use; or (b) supplying, at prices substantially below competitive prices, the needs of particular population groups for essential goods and services not otherwise practically obtainable by such groups.

3. No enterprise of either Party, including corporations, associations, and government agencies and instrumentalities, which is publicly owned or controlled shall, if it engages in commercial, manufacturing, processing, shipping or other business activities within the territories of the other Party, claim or enjoy, either for itself or for its property, immunity therein from taxation, suit, execution of judgment or other liability to which privately owned and controlled enterprises are subject therein.

Article XIX.

1. Between the territories of the two Parties there shall be freedom of commerce and navigation.

2. Vessels under the flag of either Party, and carrying the papers required by its law in proof of nationality, shall be deemed to be vessels of that Party both on the high seas and within the ports, places and waters of the other Party.

3. Vessels of either Party shall have liberty, on equal terms with vessels of the other Party and on equal terms with vessels of any third country, to come with their cargoes to all ports, places and waters of such other Party open to foreign commerce and navigation. Such vessels and cargoes shall in all respects be accorded national treatment and most-favored-nation treatment within the ports, places and waters of such other Party; but each Party may reserve exclusive rights and privileges to its own vessels with respect to the coasting trade, inland navigation and national fisheries.

4. Vessels of either Party shall be accorded national treatment and most-favored-nation treatment by the other Party with respect to the right to carry all articles that may be carried

by vessel to or from the territories of such other Party; and such articles shall be accorded treatment no less favorable than that accorded like articles carried in vessels of such other Party, with respect to: (a) duties and charges of all kinds, (b) the administration of the customs, and (c) bounties, drawbacks and other privileges of this nature.

5. Vessels of either Party that are in distress shall be permitted to take refuge in the nearest port or haven of the other Party, and shall receive friendly treatment and assistance.

6. The term "vessels", as used herein, means all types of vessels, whether privately owned or operated, or publicly owned or operated; but this term does not, except with reference to paragraph 2 and paragraph 5 of the present Article, include fishing vessels or vessels of war.

Article XX.

There shall be freedom of transit through the territories of each Party by the routes most convenient for international transit:

a) for nationals of the other Party, together with their baggage;

b) for other persons, together with their baggage, en route to or from the territories of such other Party; and

c) for articles en route to or from the territories of such other Party.

Such persons and articles in transit shall be exempt from customs duties, from duties imposed by reason of transit, and from unreasonable charges and requirements; and shall be free from unnecessary delays and restrictions. They shall, however, be subject to measures referred to in Article II, paragraph 3, and to nondiscriminatory regulations necessary to prevent abuse of the transit privilege.

Article XXI.

1. The present Treaty shall not preclude the application of measures:

a) regulating the importation or exportation of gold or silver;

b) relating to fissionable materials, to radioactive by-products of the utilization or processing thereof or to materials that are the source of fissionable materials;

c) regulating the production of or traffic in arms, ammunition and implements of war, or traffic in other materials carried on directly or indirectly for the purpose of supplying a military establishment;

d) necessary to fulfill the obligations of a Party for the maintenance or restoration of international peace and security, or necessary to protect its essential security interests; and

e) denying to any company in the ownership or direction of which nationals of any third country or countries have directly or indirectly a controlling interest, the advantages of the present Treaty, except with respect to recognition of juridical status and with respect to access to courts.

2. The most-favored-nation provisions of the present Treaty relating to the treatment of goods shall not apply to advantages accorded by the United States of America or its territories and possessions to one another, to the Republic of Cuba, to the Republic of the Philippines, to the Trust Territory of the Pacific Islands or to the Panama Canal Zone.

3. The provisions of the present Treaty shall not preclude action by either Party which is required or specifically permitted by the General Agreement on Tariffs and Trade during such time as such Party is a contracting Party to the General Agreement on Tariffs and Trade. In case a Party is not a contracting Party to the General Agreement on Tariffs and

Trade it shall nevertheless have the right to depart from the provisions of the present treaty to the extent necessitated by its international balance of payments position, in a manner contemplated by said agreement as nearly as may be practicable, and subject to the principle set forth therein that such departures shall be conformable with a policy designed to promote the maximum development of nondiscriminatory foreign trade and to expedite the attainment both of a balance of payments position and of reserves of foreign exchange which will obviate the necessity of such departures. The most-favored-nation provision of the present Treaty shall not apply to special advantages accorded by virtue of the aforesaid agreement.

4. The present Treaty does not accord any rights to engage in political activities.

5. Nationals of either Party admitted into the territories of the other Party for limited purposes shall not enjoy rights to engage in gainful occupations in contravention of limitations expressly imposed, according to law, as a condition of their admittance.

Article XXII.

1. The term "national treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of such Party.

2. The term "most-favored-nation treatment" means treatment accorded within the territories of a Party upon terms no less favorable than the treatment accorded therein, in like situations, to nationals, companies, products, vessels or other objects, as the case may be, of any third country.

3. As used in the present Treaty, the term "companies" means corporations, partnerships, companies and other associations, whether or not with limited liability and whether or

not for pecuniary profit. Companies constituted under the applicable laws and regulations within the territories of either Party shall be deemed companies thereof and shall have their juridical status recognized within the territories of the other Party.

4. National treatment accorded under the provisions of the present Treaty to companies of the Kingdom of Denmark shall, in any State, Territory or possession of the United States of America, be the treatment accorded therein to companies created or organized in other States, Territories and possessions of the United States of America.

Article XXIII.

The territories to which the present Treaty extends shall comprise all areas of land and water under the sovereignty or authority of each of the Parties, other than Greenland, the Panama Canal Zone and the Trust Territory of the Pacific Islands.

Article XXIV.

1. Each Party shall accord sympathetic consideration to, and shall afford adequate opportunity for consultation regarding, such representations as the other Party may make with respect to any matter affecting the operation of the present Treaty.

2. Any dispute between the Parties as to the interpretation or application of the present Treaty, not satisfactorily adjusted by diplomacy, shall be submitted to the International Court of Justice, unless the Parties agree to settlement by some other pacific means.

Article XXV.

The present Treaty shall replace the convention of friendship, commerce and navigation signed April 26, 1826, except Articles 8, 9, and 10 thereof, which shall remain in force until replaced by a consular convention between the two Parties or

until one year after either Party shall have given to the other Party written notice of termination of the aforesaid Articles.

Article XXVI.

1. The present Treaty shall be ratified, and the ratifications thereof shall be exchanged at Washington as soon as possible.

2. The present Treaty shall enter into force one month after the day of exchange of ratifications. It shall remain in force for ten years and shall continue in force thereafter until terminated as provided herein.

3. Either Party may, by giving one year's written notice to the other Party, terminate the present Treaty at the end of the initial ten-year period or at any time thereafter.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed the present Treaty and have affixed hereunto their seals.

DONE in duplicate, in the English and Danish languages, both equally authentic, at Copenhagen, this first day of October, one thousand nine hundred and fifty-one.

/s/ EUGENIE ANDERSON

PROTOCOL

At the time of signing the Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Denmark the undersigned Plenipotentiaries, duly authorized by their respective governments, have further agreed on the following provisions, which shall be considered integral parts of the aforesaid Treaty:

1. The term "access" as used in Article V, paragraph 1, comprehends, among other things, access to free legal aid and right to exemption from providing security for costs and judgment.

2. The provisions of Article VI, paragraph 3, providing for the payment of compensation shall extend to interests held directly or indirectly by nationals and companies of either Party in property which is taken within the territories of the other Party.

3. The provisions of Article VII, paragraph 1, shall not be construed to affect the policy of Denmark of requiring that aliens may not be employed in Denmark unless the appropriate permits have been granted. However, in keeping with the terms of that paragraph, the regulations governing employment shall be applied in a liberal fashion.

4. Notwithstanding the provisions of Article VII, paragraph 1, a Party may require companies desiring to engage in retail trade, within its territories, to be organized pursuant to Article VIII, paragraph 1.

5. The term "mineral", as used in Article VII, paragraph 2(b), refers to petroleum as well as to other mineral substances.

6. The term "financial" in Article VII, paragraph 1, and Article VIII, paragraph 1, includes banking activity. Such activity in Denmark is the activity, and that alone, which can be conducted pursuant to and under observance of the provisions in the Danish banking legislation. Applications concerning permission to establish branches of American banks in

Denmark for the conduct of banking activity as defined above will be given favorable consideration.

In the United States of America permission to inititate a banking business as defined by the applicable State and Federal laws shall be dependent on the provisions of such laws.

7. Article XII, paragraph 2, shall not be construed to prevent a Party from exercising necessary regulation over the inflow of capital pursuant to article VI, section 3 of the Articles of Agreement of the International Monetary Fund, provided that such regulation shall not as a general rule be exercised in a manner which impairs paragraphs 1 and 2 of article VII, paragraph 1 of Article VIII, or the provisions of other Articles of the Treaty.

8. The provisions of Article XVII, paragraph 2 (b) and (c), and of Article XIX, paragraph 4, shall not apply to postal services.

9. The provisions of Article XXI, paragraph 2, shall apply in the case of Puerto Rico regardless of any change that may take place in its political status.

10. Article XXIII does not apply to territories under the authority of either Party solely as a military base or by reason of temporary military occupation.

11. Notwithstanding Article XXIII, the provisions of Article XIV, paragraphs 1 and 2, and of Article XVII, shall, subject to the reservations and exceptions pertinent thereto, extend to Greenland.

IN WITNESS WHEREOF the respective Plenipotentiaries have signed this Protocol and have affixed hereunto their seals.

DONE in duplicate, in the English and Danish languages, both equally authentic, at Copenhagen, this first day of October, one thousand nine hundred and fifty-one.

/s/ EUGENIE ANDERSON

MINUTES OF INTERPRETATION

concerning Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Denmark signed at Copenhagen, October 1, 1951.

The following notes record the common understanding of the representatives of the United States of America and the Kingdom of Denmark with regard to certain questions of interpretation that arose during the course of negotiating the provisions of the Treaty of Friendship, Commerce and Navigation between the two countries signed this day:

ad Articles VII and VIII:

The word "commercial" as used in Article VII, paragraph 1, and Article VIII, paragraph 1, and the word "professional" as used in Article VII, paragraph 3, do not extend to the fields of navigation and aviation. The word "commercial" relates primarily but not exclusively to the buying and selling of goods and activities incidental thereto.

ad Article VII, paragraph 1:

It is understood that either Party may, consistently with the terms and intent of the Treaty, apply special requirements to alien insurance companies with a view to assuring that such companies maintain standards of accountability and solvency comparable to those required of like domestic companies, so long as such requirements do not have the effect of discrimination in substance against such alien companies.

ad Article VIII, paragraph 1:

It is understood that either Party may consistently with the terms of this paragraph, maintain special requirements with respect to the residence or nationality of the founders, members of the boards of directors, and managing directors of companies constituted under its laws.

ad Article XI:

Nothing in this Treaty shall be construed to supersede any provisions of the convention between the United States of America and the Kingdom of Denmark for the avoidance of double taxation and the prevention of fiscal evasion with respect to taxes on income, signed May 6th, 1948.

ad Article XIV, paragraph 4:

It shall be sufficient for the purposes of subparagraph (c) if the information and views mentioned therein are imparted in the course of appropriate multilateral discussions (as pursuant to the General Agreement on Tariffs and Trade) in which both Parties participate.

ad Article XIX, paragraph 2:

The word "flag" in Article XIX, paragraph 2, shall also comprise a reference to the Faroese flag.

Ad paragraph 6 of the Protocol:

The provisions of paragraph 6 of the Protocol do not imply discriminatory measures against duly authorized banking enterprises.

(sign.) *E. A.*

NOTEVEKSLING VEDRØRENDE ARTIKEL VII, STK. 3.

THE FOREIGN SERVICE OF THE
UNITED STATES OF AMERICA.

No. 49.

Excellency,

With reference to the treaty of friendship, commerce and navigation between the United States and Denmark, signed at Copenhagen on October 1, 1951, I have the honor to inform you that the Senate on July 21, 1953, gave its advice and consent to the ratification of the said treaty in a resolution as follows:

> „Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive I, Eighty-second Congress, second session, a treaty of friendship, commerce, and navigation between the United States of America and Denmark, together with a protocol relating thereto, signed at Copenhagen on October 1, 1951, subject to the folowing [sic] reservation, which shall be agreed to by the other high contracting party before ratifications are exchanged:
>
> „Article VII, paragraph 3, shall not extend to professions which, because they involve the performance of functions in a public capacity or in the interest of public health and safety, are state-licensed and reserved by statute or constitution exclusively to citizens of the country, and no most-favored-nation clause in the said treaty shall apply to such professions."

It will be observed that by this resolution the advice and consent of the Senate to the ratification of the treaty are given subject to a reservation to the provision that concerns the practice of professions.

It is the hope of my Government that your Government will find acceptable the reservation which the Senate has made a condition of its advice and consent to the ratification of the treaty. An acknowledgment of this note prior to the exchange of ratifications accepting by direction and on behalf of your Government, the said reservation will be considered as completing the acceptance by the two Governments of that reservation.

Copenhagen, August 5, 1953.

(sign.) JOHN O. BELL.
Chargé d'Affaires ad interim.

His Excellency
Ole Bjørn Kraft,
Minister of Foreign Affairs,
Copenhagen.

MINISTRY OF FOREIGN AFFAIRS.

Monsieur l'Ambassadeur,

As it is the intention of the Danish Government to ratify in the near future the treaty of friendship, commerce and navigation between the United States and Denmark, signed at Copenhagen on October 1, 1951, I have the honour to refer to the Embassy's note No. 49 of August 5, 1953, which reads as follows:

„With reference to the treaty of friendship, commerce and navigation between the United States and Denmark, signed at Copenhagen on October 1, 1951, I have the honour to inform you that the Senate on July 21, 1953, gave its advice and consent to the ratification of the said treaty in a resolution as follows:

„Resolved, (Two-thirds of the Senators present concurring therein), That the Senate advise and consent to the ratification of Executive I, Eighty-second Congress, second session, a treaty of friendship, commerce, and navigation between the United States of America and Denmark, together with a protocol relating thereto, signed at Copenhagen on October 1, 1951, subject to the following reservation, which shall be agreed to by the other high contracting party before ratifications are exchanged:

„Article VII, paragraph 3, shall not extend to professions which, because they involve the performance of functions in a public capacity or in the interest of public health and safety, are state-licensed and reserved by statute or constitution exclusively to citizens of the country, and no most-favored-nation clause in the said treaty shall apply to such professions."

It will be observed that by this resolution the advice and consent of the Senate to the ratification of the treaty are

given subject to a reservation to the provision that concerns the practice of professions.

It is the hope of my Government that your Government will find acceptable the reservation which the Senate has made a condition of its advice and consent to the ratification of the treaty. An acknowledgment of this note prior to the exchange of ratifications accepting by direction and on behalf of your Government, the said reservation will be considered as completing the acceptance by the two Gowernments [sic] of that reservation."

During previous discussions between this Ministry and your Embassy it has been agreed that the reservation of the Senate, if accepted by the Danish Government, is mutual in its effect and operative equally upon each party and thus constitutes an identical reservation on the part of the Danish Government.

In view of this understanding I have the honour to confirm that my Government find acceptable the reservation made by the Senate of the United States. I am in agreement with the Embassy's suggestion that the above-mentioned note of August 5, 1953 and the present reply constitute an integrating part of the treaty of friendship, commerce and navigation between Denmark and the United States of America.

I avail myself of this opportunity to renew to you, Monsieur l'Ambassadeur, the assurance of my highest consideration.

Copenhagen, January 26, 1960.

(sign.) J. O. KRAG.

His Excellency
Mr. Val Peterson,
Ambassador of the United States of
America,
Copenhagen.

The Ministry of Foreign Affairs hereby confirms that the above is a true copy of the "Treaty of Friendship, Commerce and Navigation between the United States of America and the Kingdom of Denmark", incl. Minutes of Interpretation, signed October 1, 1951 in Copenhagen.

MINISTRY OF FOREIGN AFFAIRS

For the Minister
b.a.
Julie Rechnagel
JULIE RECHNAGEL

KINGDOM OF DENMARK
CITY OF COPENHAGEN
EMBASSY OF THE UNITED
STATES OF AMERICA } ss

I, Mildred J Hall, Consul of the United States of America at Copenhagen, Denmark, duly commissioned and qualified, do hereby certify that Julie Rechnagel whose true signature and official seal are, respectively, subscribed and affixed to the annexed document, was on the 22 day of April 1981, the date thereof an official of the Danish Foreign Ministry duly commissioned and qualified, to whose official acts faith and credit are due.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the Embassy at Copenhagen, Denmark this 22 day of April 1981

Mildred J. Hall
Consul of the
United States of America

APPENDIX B

MINISTRY OF FOREIGN AFFAIRS

File No. R.I.3.S.123/8

Statement of the Danish Government concerning the interpretation of the Treaty of Friendship, Commerce and Navigation between the Kingdom of Denmark and the United States of America, signed on 1 October 1951

During 1980 and 1981 the Danish Government has on several occasions informed the Government of the United States of America of its interpretation of the above mentioned Treaty, particularly in connection with the case Linskey v. Heidelberg Eastern, Inc., 470 F. Supp. 1181 (E.D.N.Y. 1979), leave to appeal denied, Civ. 79-8475 (2d Cir. Jan. 23, 1980). The position of the Danish Government in this regard can be summarized as follows:

The Danish Government is of the opinion that under Article VII (4), seen in conjunction with Article VIII (1) of the Treaty, Danish companies which control and manage enterprises established or acquired in the United States according to Article VIII (1) are entitled to engage Danish nationals in positions such as specified in Article VII (4). American companies, of course, enjoy the equivalent right in Denmark. This interpretation is not only expressly underlined by the use in Article VII (4) of the words ". . . employees of their choice, regardless of nationality . . .", but is likewise mandated if the right provided in Article VIII (1) to control and manage enterprises in the territories of the other Party is to remain unimpaired.

As to the question of the applicability of Article VII (4) to companies constituted under Article VIII, the minutes of interpretation attached to the Treaty state re Article VIII, paragraph 1:

"It is understood that either Party may consistently with the terms of this paragraph, maintain special requirements with respect to the residence or nationality of the founders, members of the boards of directors, and managing directors of companies constituted under its laws".

In the view of the Government of Denmark this interpretative statement leaves no doubt that it was the intent of the negotiators that the right to engage personnel regardless of nationality as stipulated in Article VII (4) would apply also to companies constituted under Article VIII, subject to the reservation agreed upon in the minutes of interpretation. Otherwise the said minutes of interpretation re Article VIII (1) would have no meaning.

This understanding of the relevant treaty provisions is furthermore borne out by the fact that the right to control and manage enterprises established or acquired within the territory of the other Party, cf. Article VIII (1), would, in the nature of things, be of practically no value if the company in control were not granted the right to engage personnel of its own nationality at the executive level. The unitary structure of Article VII and VIII further supports this conclusion.

This interpretation of the Treaty does not in any way imply that under the U.S.-Danish Treaty of Friendship a foreign company may disregard all domestic discrimination laws relating to employment, for instance in regard to race, religion, age, sex, etc. What the Treaty provides, however, is that locally incorporated subsidiaries of Danish or United States corporations basing themselves on pertinent business considerations shall have the right to make employment decisions concerning executive level personnel irrespective of the nationality of the employee.

Copenhagen, December 23, 1981

Tyge Lehmann
Head of Division
Legal Department
Ministry of Foreign Affairs

KINGDOM OF DENMARK
CITY OF COPENHAGEN
EMBASSY OF THE UNITED
STATES OF AMERICA } ss

I, JOSEPH ST. JOHN, VICE CONSUL of the United States of America at Copenhagen, Denmark, duly commissioned and qualified, do hereby certify that TYGE LEHMANN whose true signature and official seal are, respectively, subscribed and affixed to the annexed document, was on the 23rd day of DECEMBER 1981, the date thereof AN OFFICIAL OF THE DANISH MINISTRY OF FOREIGN AFFAIRS duly commissioned and qualified, to whose official acts faith and credit are due.

IN WITNESS WHEREOF I have hereunto set my hand and the seal of the Embassy at Copenhagen, Denmark this 28th day of DECEMBER 1981

Joseph A. St. John
American Vice Consul

Best Copy Available

The following is a photocopy of the Danish Ministry Letter dated December 23, 1981 printed herein at pages 31a-33a

MINISTRY OF FOREIGN AFFAIRS

File No. R.I.3.S.123/8

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business considerations shall have the right to make employment decisions concerning executive level personnel irrespective of the nationality of the employee.

Copenhagen, December 23, 1981

Tyge Lehmann
Head of Division
Legal Department
Ministry of Foreign Affairs

KINGDOM OF DENMARK
CITY OF COPENHAGEN
EMBASSY OF THE UNITED
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IN WITNESS WHEREOF I have hereunto set my hand and the seal of the Embassy at Copenhagen, Denmark this 28th day of DECEMBER 1981

Joseph A. St. John
American Vice Consul